



**Matthew Rodriguez**  
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## Department of Toxic Substances Control

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### Response to Comments

(December 7, 2011)

#### HAZARDOUS WASTE FACILITY POST-CLOSURE PERMIT AND NEGATIVE DECLARATION

DuPont Oakley Site  
6000 Bridgehead Road  
Oakley, California 95023  
EPA ID. NO. CAD009151671

### **Background**

#### **Public Participation Activities:**

Pursuant to California Code of Regulations, title 22, section 66271.9 the Department of Toxic Substances Control (DTSC) issued a public notice for the Draft Hazardous Waste Facility Post-Closure Permit and Draft Negative Declaration on September 7, 2011. Display advertisements were placed in the Brentwood News, the Oakley News, and the Antioch News announcing the comment period and public hearing. Fact sheets with information about the project and public participation activities were mailed to approximately 1511 addresses on the facility mailing list. Radio advertisements of the public comment period and public hearing were broadcast on radio station KITS. Document repositories were set up at the Oakley Public Library in Oakley and at the DTSC Cal Center office in Sacramento. A public hearing was held at 6:30 PM on October 6, 2011, at the Administrative Office Building, Former DuPont Facility Library in Hollister. Mr. Charles Orwig and Mr. Bob Deaver of DuPont attended the public hearing. No member of the public attended the public hearing and no public comments were received at the public hearing.

The comment period was open from September 7, 2011, through October 21, 2011. DTSC received eight comments on the draft Negative Declaration. Those comments were received from the following persons: Mr. Gary Arnold, Department of Transportation (DOT), and Ms. Genevieve (Gen) Sparks, California Regional Water Quality Control Board (CRWQCB). The DTSC and CRWQCB comments on the Draft Negative Declaration each concern obtaining standard transportation and water department permits. One comment was received via email from Mr. Charles Orwig of DuPont concerning the Draft Permit. A copy of the comment letters and the email are attached.

**California Environmental Quality Act (CEQA):**

DTSC prepared an Initial Study, dated September 2, 2011, to evaluate potential environmental effects associated with the Draft Post-Closure Permit. On the basis of the Initial Study, DTSC found that the proposed project could not have a significant effect on the environment and a Draft Negative Declaration was prepared.

**Comments Received and Responses to Comments - DOT**

The following comments were received from Mr. Gary Arnold, DOT, in a letter dated September 22, 2011.

**DOT Comment 1:**

**"Traffic Management Plan**

If it is determined that traffic restrictions and pedestrian / bicycle detours are needed, a Transportation Management Plan or construction traffic impact study may be required by the developer for approval by the lead agency and the Department prior to construction. The plans shall be prepared in accordance with the Department's *Manual of Traffic Controls for Construction and Maintenance Work Zones*, which begins as follows: "During any time the normal function of a roadway is suspended, temporary traffic control planning must provide for continuity of function (movement of traffic, pedestrians, bicyclists, transit operations, and access to property/utilities)." Further information is available on the following website:  
<http://www.dot.ca.gov/hq/traffops/signtech/signdel/trafficmanual.htm>."

**Response to DOT Comment 1:**

Comment noted. Traffic Restrictions and pedestrian / bicycle detours are not anticipated for the proposed activities. However, if it is determined that traffic restrictions and pedestrian / bicycle detours are needed, a Transportation Management Plan or construction traffic impact study will be prepared by the Permittee (or authorized contractor) for approval by DTSC and DOT prior to construction. A copy of the September 22, 2011 comment letter from Mr. Arnold has been forwarded to the Permittee for consideration of this comment in regards to the proposed permit activities.

**DOT Comment 2:**

**"Transportation Permit**

Project work that requires movement of oversized or excessive load vehicles on State roadways, such as State Route (SR) 4 or SR 160 requires a transportation permit that is issued by the Department. To apply, a completed transportation permit application with

the determined specific route(s) for the shipper to follow from origin to destination must be submitted to the address below.

Office of Transportation Permits  
California DOT Headquarters  
P.O. Box 942874  
Sacramento, CA 94274-0001

See the following website link for more information:

<http://www.dot.ca.gov/hq/traffops/permits/>

#### **Response to DOT Comment 2:**

Comment noted. The movement of oversized or excessive load vehicles on State roadways is not anticipated for the proposed project activities. However, if it is determined that the project requires movement of such vehicles on State roadways, the Permittee (or its authorized contractor) will obtain a transportation permit application for approval by the Office of Transportation Permits. A copy of the September 22, 2011 comment letter from Mr. Arnold has been forwarded to the Permittee for consideration of this comment in regards to the proposed permit activities.

#### **Comments Received and Responses to Comments - CRWQCB**

The following comments were received from Ms. Genevieve (Gen) Sparks, CRWQCB, in a letter dated October 4, 2011.

#### **CRWQCB Comment 1:**

##### **"Construction Storm Water General Permit**

Dischargers whose project disturb one or more acres of soil or where projects disturb less than one acre but are part of a larger common plan of development that in total disturbs one or more acres, are required to obtain coverage under the General Permit for Storm Water Discharges Associated with Construction Activities (Construction General Permit), Construction General Permit Order No. 2009-009-DWQ. Construction activity subject to this permit includes clearing, grading, grubbing, disturbances to the ground, such as stockpiling, or excavation, but does not include regular maintenance activities performed to restore the original line, grade, or capacity of the facility. The Construction General Permit requires the development and implementation of a Storm Water Pollution Prevention Plan (SWPPP).

For more information on the Construction General Permit, visit the State Water Resources Control Board website at:

[http://www.waterboards.ca.gov/water\\_issues/programs/stormwater/constpermits.shtml](http://www.waterboards.ca.gov/water_issues/programs/stormwater/constpermits.shtml).

**Response to CRWQCB Comment 1:**

Comment noted. As stated in Section 3.1 of the West Basin Closure Plan (Appendix C of the Post-Closure Permit Application), DuPont will obtain coverage under a *General Permit for Storm Water Discharges Associated with Construction Activities* prior to initiating construction.

**CRWQCB Comment 2:**

“Phase I and II Municipal Separate Storm Sewer System (MS4) Permits

The Phase I and II MS4 permits require the Permittees reduce pollutants and runoff flows from new development and redevelopment using Best Management Practices (BMPs) to the maximum extent practicable (MEP). MS4 Permittees have their own development standards, also known as Low Impact Development (LID)/post-construction standards that include a hydromodification component. The MS4 permits also require specific design concepts for LID/post-construction BMPs in the early stages of a project during the entitlement and CEQA process and the development plan review process.

For more information on which Phase I MS4 Permit this project applies to, visit the Central Valley Water Board website at:  
[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/municipal\\_permits/.](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/municipal_permits/)”

**Response to CRWQCB Comment 2:**

Comment noted. As indicated in the Initial Study for the Draft Negative Declaration insignificant runoff, if any, produced by the backfilling of the West Basin will not provide a substantial additional source of polluted runoff as the backfill will consist of clean soils, and no fertilizers or pesticides will be used in the future for this area. However, if Phase I and II MS4 permits are deemed necessary, the Permittee will reduce pollutants and runoff flows using BMPs to the maximum extent practicable. A copy of the October 4, 2011 comment letter from Ms. Sparks has been forwarded to the Permittee for consideration of this comment in regards to the proposed permit activities.

**CRWQCB Comment 3:**

“Industrial Storm Water General Permit

Storm water discharges associated with industrial sites must comply with the regulations contained in the Industrial Storm Water General Permit Order No. 97-03-DWQ.

For more information on the Industrial Storm Water General Permit, visit the Central Valley Water Board website at:  
[http://www.waterboards.ca.gov/centralvalley/water\\_issues/storm\\_water/industrial\\_general\\_permits/index.shtml.](http://www.waterboards.ca.gov/centralvalley/water_issues/storm_water/industrial_general_permits/index.shtml)”

**Response to CRWQCB Comment 3:**

Comment does not apply. As indicated in the initial study the former Antioch Works (DuPont Oakley Site) is site is not an operating facility currently operating under interim status or a general permit under Subtitle C of the Federal Resource, Conservation, and Recovery Act (RCRA).

**CRWQCB Comment 4:**

“Clean Water Act Section 404 Permit

If the project will involve the discharge of dredged or fill material in navigable waters or wetlands, a permit pursuant to Section 404 of the Clean Water Act may be needed for the United States Army Corps of Engineers (USACOE). If a Section 404 permit is required by the USACOE, the Central Valley Water Board will review the permit application to ensure that discharge will not violate water quality standards. If the project requires surface water drainage realignment, the applicant is advised to contact the Department of Fish and Game for information on Streambed Alteration Permit requirements.

If you have any questions regarding the Clean Water Act Section 404 permits, please contact the Regulatory Division of the Sacramento District of USACOE at (916)557-5250.”

**Response to CRWQCB Comment 4:**

Comment does not apply. As indicated in the Initial Study, on December 28, 2008 the USACOE determined that the West Basin is an intrastate isolated water body with no apparent interstate or foreign commerce connection. As such, the West Basin is not regulated by the USACOE under Section 404 of the Federal Clean Water Act.

**CRWQCB Comment 5:**

“Clean Water Act Section 401 Permit - Water Quality Certification

If an USACOE permit, or any other federal permit, is required for this project due to the disturbance of waters of the United States (such as streams and wetlands), then a Water Quality Certification must be obtained from the Central Valley Water Board prior to initiation of project activities. Water Quality Certification must be obtained prior to initiation of project activities. There are no waivers for 401 Water Quality Certifications.”

**Response to CRWQCB Comment 5:**

Comment does not apply. A USACOE or other federal permit for disturbance of waters of the United States is not required for activities associated with the post-closure permit activities.

**CRWQCB Comment 6:**

"Waste Discharge Requirements

If USACOE determines that only non-jurisdictional waters of the State (i.e., "non-federal" waters of the State) are present in the proposed project area, the proposed project will require a Waste Discharge Requirement (WDR) permit to be issued by Central Valley Water Board. Under the California Porter-Cologne Water Quality Control Act, discharges to all waters of the State, including all wetlands and other waters of the State including, but not limited to, isolated wetlands, are subject to State regulation.

For more information on the Water Quality Certification and WDR processes, visit the Central Valley Water Board website at:

[http://www.waterboards.ca.gov/centralvalley/water\\_issues/water\\_quality\\_certification/](http://www.waterboards.ca.gov/centralvalley/water_issues/water_quality_certification/)

**Response to CRWQCB Comment 6:**

Comment does not apply. The West Basin is a former regulated waste water treatment unit and does not contain waters of the State subject to the California Porter-Cologne Water Quality Control Act.

**Comment Received and Response to Comment – DuPont**

The following comment was received from Mr. Charles H. Orwig, DuPont, in an e-mail dated September 28, 2011.

**DuPont Comment 1:**

"The DuPont Oakley facility (CAD 009151671) DRAFT Hazardous Waste Post-Closure Permit (October XX, 2011), Part V, item 3 establishes an 18 month schedule for completion of West Basin construction activities. The most efficient and economical plan for backfill of the West Basin depends on in-situ water management within the two halves of the basin, and the original intent was to complete construction in each separate half of the Basin during separate dry seasons, thus an 18 month schedule would work only if the Effective Permit date were to occur in the spring, rather than the fall. Because the likely Effective Permit date is some time in October 2011, DuPont will not have the benefit of two dry seasons for construction completion.

DuPont therefore respectfully requests that the Department consider granting an additional six (6) months to allow a second dry season for construction completion.”

**Response to DuPont Comment 1:**

DTSC examined the content of the request and has determined that this change request will not affect DTSC’s commitment to protect human health and the environment and will not contradict applicable regulations for post-closure permits. DTSC made the following change to the permit (strikeouts are included for reference):

- Page 15, Part IV – Special Conditions, Section 3 has been revised to read:
  3. The Permittee shall complete the activities associated with the backfilling of the West Basin in accordance with Appendix C of the Approved Application within ~~eighteen~~ twenty-four (18 24) months of the Effective Date of this permit.